

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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Federal Communications Commission
Office of the Secretary

In the Matter of)
)
Petition of TeleCommunication Systems, Inc.) WCB Docket
and HBF Group, Inc. for Waiver)
Of Part 52 of the Commission Rules)

**PETITION OF TELECOMMUNICATION
SYSTEMS, INC. AND HBF GROUP, INC. FOR WAIVER**

H. Russell Frisby, Jr.
Steven J. Hamrick
Fleischman and Walsh, L.L.P.
1919 Pennsylvania Avenue, N.W.
Suite 600
Washington, DC 20006
(202) 939-7900

Attorneys for Petitioners

February 20, 2007

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TeleCommunication Systems, Inc. ("TCS"), and HBF Group, Inc. ("HBF"), (the "Petitioners"), by their attorneys, hereby request that the Commission waive Part 52 of its rules and hold that Petitioners as providers of VoIP Position Center service to VoIP Service Providers, which are certificated in at least a single state, are deemed to be eligible users of pseudo Automatic Number Identification resources in all other states and may continue to be eligible to receive numbering resources without having to demonstrate that they are certificated in all fifty states. In support thereof the Petitioners state:

I. INTRODUCTION AND SUMMARY

By this petition TCS and HBF seek to ensure that they continue to have access to vital numbering resources. Petitioners are two of the three primary providers of VoIP Position Center ("VPC") service to VoIP Service Providers ("VSPs") in the United States. As such, they are critical to the efficient provision and deployment of VoIP E911 service.

Without access to pseudo Automatic Number Identification ("p-ANI") codes they would ultimately be forced to discontinue the provision of these services.

By filing this Petition, TCS and HBF simply seek to "grandfather" the current situation as applied to them. Specifically, the Petitioners seek assurances that existing ESQs will not be withdrawn from those entities who have already acquired ESQs, and that those entities will remain eligible to acquire ESQs. Significant effort and expense has been expended by VPCs, local 911 System Service Providers (SSPs), and the Public Safety Community in the acquisition, provisioning, and testing of existing ESQs, resulting in the fastest and most far reaching E911 deployment in history. To withdraw ESQs or to inhibit existing entities from acquiring them would be a step backwards and would not be in the best interests of the public. This petition is not intended to affect the rights or interests of other entities.

This action has been necessitated by the fact that recently, Petitioners' ability to continue to have access to p-ANI codes has been called into question. By letter dated September 8, 2006 from Thomas J. Navin, Chief, Wireline Competition Bureau to Thomas M. Koutsy, Chair, North American Numbering Council and Amy L. Putnam, Director, Number Pooling Services ("*Navin Letter*") NeuStar, Inc. ("NeuStar" or "IRNA") was assigned to be the Interim Routing Number Authority. In this letter, Mr. Navin indicated that entities seeking p-ANI codes from NeuStar must be licensed or certified by the FCC or a state commission consistent with Part 52 of the Commission's Rules (47 CFR 52). *Navin Letter* at 3. Section 52.15 (g) (2) (i) of the Commission's Rules provides that an applicant for initial numbering resources must provide evidence that it "is authorized to provide service in the area for which the numbering resources are

being requested.” 47 CFR § 52.15 (g) (2) (i). Thus, this Commission provision could be interpreted to require Petitioners to be certificated in all fifty states to maintain eligibility for p-ANI resources in all states.

Petitioners believe that they meet the requirements of this rule and other Commission exceptions because each are certificated in at least one state. However, out of an abundance of caution and concern for the public welfare, the Petitioners seek a waiver of this rule and any other provisions of Part 52 to the extent that they may be deemed to prevent the companies from being eligible users of p-ANI resources in all states and thus eligible to receive numbering resources from NeuStar. Application of the onerous interpretation of Section 52.15(g)(2) of the Commission’s rules would frustrate that provision’s purpose and disserve the public interest; thus, a grant of this request for waiver meets the standards for rule waiver grants by the Commission.¹

II. VPCS ARE CRITICAL TO THE EFFICIENT PROVISION OF VOIP E911 AND MUST HAVE ACCESS TO P-ANI

TCS and HBF are two of the three primary providers of VPC services in the United States. Petitioners are certified telecommunications carriers in at least one state and have collectively deployed, in the past twelve months, VoIP E911 i2 services for multiple VSPs to over 4,000 Public Safety Answering Points (“PSAPs”) nationwide.

The Petitioners, along with one other VPC, provide 99% of all call routing instructions to nomadic VSPs, and ALI data delivery to the PSAPs. Both of these functions are dependent upon the acquisition, provisioning and management of p-ANI.

¹ See 47 C.F.R § 1.925(b)(3)(i) (“The Commission may grant a request for waiver if it is shown that [t]he underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the required waiver would be in the public interest[.]”)

Accordingly, continued VPC access to p-ANI resources is critical for the efficient provision of VoIP E911 services. It is for this reason that the p-ANI Interim Guidelines provide that "an Eligible User [e.g. eligible to receive p-ANI for VoIP, also referred to as Emergency Service Query Keys ("ESQs")] shall include...an entity providing VPC service acting on behalf of VSPs." *p-ANI Interim Assignment Guidelines for ESQK*, Section 4.1 (Revised December 5, 2005) ("*Interim Guidelines*").

Heretofore, p-ANIs have been obtained by the Petitioners from established authorities. In accordance with NENA i2 standards, these p-ANIs are acquired and administered by each VPC and are shared by all of the various VSPs that employ that VPC for VoIP E911 i2 services. This structure not only provides VPCs with unfettered access to p-ANI resources, but also offers a number of benefits including: (1) preservation of scarce numbering resources; (2) reduced testing for PSAPs, resulting in swifter deployment of nationwide VoIP E911 i2 service and reduced demands on public safety; (3) increased reliability due to fewer provisioning requirements at the VPC, the ALI system and the selective router; and (4) increased and timely availability of nationwide VoIP E911 i2 services for VSP subscribers. This last benefit is a critical requirement for small VSPs that lack a nationwide presence, but whose customers nevertheless may operate in a nomadic mode.

III. UNLESS THE WAIVER IS GRANTED THE *NAVIN LETTER* COULD SERVE TO RESTRICT VPC ACCESS TO P-ANI

Requiring NeuStar to operate consistently with Part 52 of the Commission's Rules and citing Paragraph 97 of the Commission's Numbering Resource Optimization Order

[15 FCC Rcd 7574, 7615 (2000)], the *Navin Letter* states that in order to be an "Eligible User" an entity seeking p-ANI from NeuStar "must be licensed or certified by the FCC or a state commission to operate as a telecommunications carrier." *Navin Letter* at 3. At the same time, it appears that NeuStar is also permitted to provide p-ANI to "carriers that provide wholesale 911-related services to VoIP service providers" without evidence of certified "status." *Id.* Requests for waivers may be filed by any entity certifying that it fully remits 911 emergency service fees into all state and local 911 funds, and fully contributes to universal service mechanisms. *Id.* Although Petitioners do provide wholesale E911-related services to VSPs, as VPCs they do not make contributions to emergency or universal service funds.

Section 52.15 of the Commission's Rules could be interpreted to require Petitioners to demonstrate that they are certified in all fifty states to gain nationwide access to p-ANI resources. Such an application of Section 52 would frustrate its underlying purpose, as well as disserve the Commission's VoIP E911 policy, by delaying the deployment of VoIP E911.

As a result of such a restrictive interpretation, VPCs such as Petitioners would no longer be able to acquire and manage p-ANI for shared use among their VSP customers. This impediment to deployment would immediately impact those PSAPs where VPCs had not previously deployed and later at other PSAPs as additional ESQKs were required. It should be noted that in its role as Interim Routing Number Authority, NeuStar has recognized the legitimacy of the existing informal agreement among VPCs, including the petitioners, to self-administer ESQKs in areas otherwise not served by established numbering authorities. While this mitigates the immediate impact of the obligation to

achieve certification, the specter of certification remains a serious problem for the longer term when the permanent RNA assumes its duties. Further, the supply of available p-ANI might become exhausted if VPCs are inhibited from acting as consolidators of ESQK resources. Such a result would be contrary to Commission-supported policy that "ESQK numbering resources shall be assigned to permit the most effective and efficient use of a finite numbering resource in order to prevent premature exhaust." *Interim Guidelines* at Section 3.6. Due to concerns over number exhaustion, NENA standards call for VPCs to be able to acquire and manage ESQKs.

Currently, VSPs are authorized in most states to acquire their own ESQKs or to utilize shared pools of ESQKs provided by VPCs. By this waiver, the petitioners propose no changes regarding the authority of VSPs to acquire ESQKs.

Requiring VPCs such as the Petitioners to become certified telecommunication carriers in every state is neither necessary nor in the public interest. This requirement would prove onerous, if not impossible, and would delay deployment of remaining PSAPs for six to twelve months while each VPC independently seeks nationwide certification. Due to the uniqueness of the role played by VPCs and because they carry no actual voice traffic, some states might not certify VPCs. VPCs also face the possibility that some entities might prohibit the issuance of ESQKs to individual VSPs, and require instead that all ESQKs be assigned to VPCs. It remains to be seen if there are states that (1) will not certify VPCs and (2) require ESQKs to be assigned to VPCs. If this condition exists, VoIP E911 deployments will cease in those states unless this petition is granted.

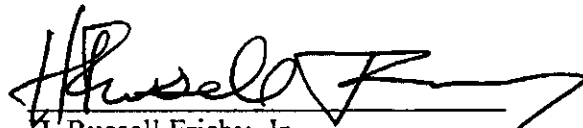
Under the current system, Petitioners are certified in at least one state and no further certification has been required for nationwide access to p-ANI resources. As the Future of Numbering Working Group of the North American Numbering Council has indicated, it is not necessary that non-carrier applicants for numbering resources "be certificated by a state commission in order to be considered 'authorized' to provide service in the area for which the numbering resources are requested." *VoIP Service Providers' Access Requirements for NANP Resource Assignments*, NANC Report and Recommendation by the Future of Numbering Working Group at 8 (July 19, 2005). This result would be consistent with the purpose of Section 52.15 (g)(2) of the Commission's roles.

Therefore, it would be appropriate for the Commission to waive the provisions of Part 52 to permit the Petitioners, each of whom is a VPC which is certificated as a carrier in at least one state, to be deemed to be eligible to receive p-ANI from NeuStar for all fifty states. This would allow current VoIP E911 i2 deployments to proceed unimpeded. It would also promote the conservation of scarce numbering resources and not affect existing financial support for 911 emergency fees or universal service mechanisms. Future VPC providers would have minimal certification requirements and would be able to compete equally in the marketplace.

CONCLUSION

In sum, the *Navin Letter* has created uncertainty regarding whether the Petitioners, as existing VPC providers, are to continue to have access to needed p-ANI and whether as a result VoIP E911 deployments will continue at a rapid pace. To address this confusion, the Commission should waive the provisions of Part 52 of its Rules such that Petitioners, each of whom is a VPC certificated as a carrier in at least one state, are deemed to be eligible to receive p-ANI from NeuStar without having to demonstrate that they are certificated in all fifty states. Failure to grant the requested waiver would not be in the public interest and only serve to frustrate the fundamental purpose of the Commission's Rules.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "H. Russell Frisby, Jr.", written over a horizontal line.

H. Russell Frisby, Jr.

Steven J. Hamrick

FLEISCHMAN AND WALSH, L.L.P.

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Attorneys for Petitioners

Dated: February 20, 2007

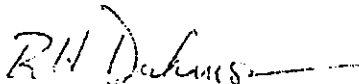
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DECLARATION OF RICHARD H. DICKINSON

I, Richard H. Dickinson, under penalty of perjury declare and say as follows:

1. I am the Senior Director, Public Safety for TeleCommunication Systems, Inc. ("TCS").
2. I have read and am familiar with the Petition for Waiver filed by TCS, Inc., and HBF Group, Inc.
3. The facts alleged in the Petition are true and correct to the best of my knowledge, information and belief.



Richard H. Dickinson

Dated: February 15, 2007